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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,360	02/23/2004	Adria Valley Anne Nelson Ellis		8816

7590 10/12/2005  
Adria Valley Anne Nelson  
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EXAMINER

GREENE, JASON M

ART UNIT PAPER NUMBER

1724

DATE MAILED: 10/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/784,360

Applicant(s)

ELLIS ET AL.

Examiner

Jason M. Greene

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2004 and 11 February 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

#### ***Drawings***

1. The drawings were received on 27 December 2004. These drawings are acceptable.

#### ***Specification***

2. The amendment filed 11 February 2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The surface treatment of the belt or disk being a high tooth textured or a stickified treatment, as mentioned at page 9, lines 20-21, page 13, line 5, and page 14, lines 7 and 20-21.

Applicant is required to cancel the new matter in the reply to this Office Action.

3. A substitute specification excluding the claims is required pursuant to 37 CFR 1.125(a) because the numerous and substantive amendments presented in the papers

filed on 11 February 2005, especially at pages 3-7, make it difficult to arrange the papers for printing or copying.

A substitute specification must not contain new matter. The substitute specification must be submitted with markings showing all the changes relative to the immediate prior version of the specification of record. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. An accompanying clean version (without markings) and a statement that the substitute specification contains no new matter must also be supplied. Numbering the paragraphs of the specification of record is not considered a change that must be shown.

4. The Examiner notes that amendments to the specification submitted on 11 February 2005 are not in full compliance with 37 CFR 1.121 because the amendment did not present marked up replacement paragraphs showing the changes to be made relative to the immediate prior version. However, the amendment was entered and considered by the Examiner in the interest of compact prosecution and in view of the above noted requirement for a substitute specification. It appears as though Applicants attempted to submit a substitute specification as "an amended patent application" along with the papers filed on 11 February 2005. However, the "amended patent application"

was not treated as a substitute specification since it was not labeled as such and did not contain a clean version (i.e. without markings) and a statement regarding the absence of new matter. The Examiner notes that specification portion of the "amended patent application" filed on 11 February 2005 can be resubmitted (without the above mentioned new matter) as the marked up version of the substitute specification.

### ***Claims***

5. Claim 5 recites the limitation "a toxic and noxious gas detection and recognition and radiation detection" in line 16. While, the portion of claim 5 in which the limitation is recited is directed to the structure of the air filtration machine, the phrase reads as a method step since it does not positively recite a structural element. Accordingly, the Examiner suggests Applicants amend the phrase to read as "a toxic and noxious gas detection and recognition and radiation detection device" to positively recite a structural element. The Examiner additionally notes that in place of the word "device", Applicants may insert a similar word such as apparatus or assembly. Similarly, claim 5 also recites the phrase "a automatic safety shut down" in line 17. As noted above, since the phrase reads as a method step (i.e. providing a safety shutdown), the phrase does not positively recite additionally structure. Accordingly, the Examiner suggests Applicants rewrite the phrase as "a automatic safety shut down device".

6. Claim 7 recites "a multiple step process for air filtration that is self cleaning as claimed in claim 5" in lines 1-2. Since claim 5 fails to recite the phrase "A multiple step process", the Examiner suggests Applicants delete the phrase "multiple step" in line 1 of claim 7 to improve the readability, clarity and precision of the claim language.

### ***Claim Objections***

7. Claim 8 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, the claim has not been further treated on the merits.

### ***Claim Rejections - 35 USC § 101***

### ***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-6 are ambiguous since they claim both an apparatus and the method steps of using the apparatus. Specifically, the claims recite a self cleaning air filtration machine and a method of using the same.

10. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

11. Claims 1-6 are also rejected under 35 U.S.C. 101 because the claims are directed to neither a "process" nor a "machine," but rather embrace or overlap two different statutory classes of invention set forth in 35 U.S.C. 101 which is drafted so as to set forth the statutory classes of invention in the alternative only. *Ex parte Lyell*, 17 USPQ2d 1548 (Bd. Pat. App. & Inter. 1990).

The Examiner notes that the rejections to claims 1-4 can be overcome by rewriting the preambles of the claims such that a single statutory class of invention (e.g. an apparatus or a method) is recited. For example, claim 1 can be put into the form of a proper apparatus claim by rewriting the preamble (i.e. lines 1-2) to read as "A self cleaning air filtration machine comprising". Similar changes can also be made to claims 2-4. The Examiner additionally notes that Applicants can also add new claims 9-12 directed to the method recited in claim 1. For Example, new claim 9 can be introduced which reads as "A process for air filtration comprising the step of passing an airstream to be filtered through a self cleaning air filtration machine comprising:" and which then repeats the apparatus parts recited in claim 1.

Similarly, claims 5 and 6 can be put into the form a proper method claim by rewriting the first three lines to read as "A process for air filtration comprising the steps of: passing an airstream to be filtered through a self cleaning machine for air filtration". A similar change can also be made to claim 6.

Additionally, the Examiner suggests that Applicants amend claim 5 such that the preamble (i.e. lines 1-2) does not recite both "a process" and "a method" since these phrases have essentially the same meaning, and are therefore redundant.

12. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 parenthetically recites the surface treatment comprising a high tooth textured or a stickified treatment in lines 2-3. However, since the specific treatments are recited within parentheses, it is not clear if the surface treatment is intended to be limited to only the recited treatments.

13. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. Specifically, the limitation "further comprises the option to use any and all dependent claims in whatever configuration is most beneficial" renders the claim indefinite since it is not clear which claims, or which parts of the claims, are intended to be encompassed by the language.



14. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

15. Claim 3 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 3 recites the surface treatment comprising a high tooth textured or a stickified treatment in lines 2-3. However, the specification, as filed, does not recite the specific surface treatments applied to the surface of the belt or disk. Eventhough Applicants have attempted to amend the specification to recite such treatments, new matter cannot be introduced after the application is filed. Accordingly, the Examiner suggests Applicants delete the phrase "(high tooth textured and or a stickified)" in lines 2-3.

### ***Response to Arguments***

16. Applicant's arguments, see page 2, line 8 to page 4, line 13, filed 27 December 2005, with respect to the 35 USC 103 rejection of claims 1,2 and 4 have been fully considered and are persuasive. The 35 USC 103 rejection of claims 1,2 and 4 has

been withdrawn. Furthermore, the 35 USC 103 rejection of claim 3 has been withdrawn since claim 3 depends from claim 1.

17. Applicant's arguments, see page 5, line 12 to page 14, line 10 filed 27 December 2005, with respect to the 35 USC 103 rejections of claims 5-8 have been fully considered and are persuasive. The 35 USC 103 rejection of claims 5-8 have been withdrawn.

#### ***Allowable Subject Matter***

18. Claims 1-6 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 101, 112, 1st paragraph, and 112, 2nd paragraph, set forth in this Office action.

19. Claim 7 is objected to as being dependent on a rejected base claim, but would be allowable if claim 5 were amended to overcome the above noted rejections.

#### ***Conclusion***

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Greene whose telephone number is (571)

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272-1157. The examiner can normally be reached on Monday - Friday (9:00 AM to 5:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason M. Greene  
Examiner  
Art Unit 1724

  
10/6/05

jmg  
October 6, 2005